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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,557	05/13/2004	Richard Lubaway	81099481 / FMC 1749 PUSP	3556
28395	7590	10/03/2006	EXAMINER	
BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238			REDMAN, JERRY E	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/709,557

Applicant(s)

LUBAWAY, RICHARD

Examiner

Jerry Redman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7-9 and 11-16 is/are rejected.
- 7) ☒ Claim(s) 2-6,10 and 17-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/13/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

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The applicant's information disclosure statement dated 5/13/2004 has been considered and a copy has been placed in the file.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Pickles (3,736,702). Pickles ('702) discloses an apparatus for positioning a window in a vehicle having a mounting surface (below element 10), the apparatus comprising: a lift mechanism (76, 16, and 10) disposed on the mounting surface, the lift mechanism (76, 16, and 10) configured to move the window (column 1, line 67) between a raised position and a lowered position, a strut (50) having a first end (52) disposed on the mounting surface and a second end (40) adapted to engage the window, and the strut (50) biases the window toward a raised position.

Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Burrige (3,219,335). Burrige ('335) discloses an apparatus for positioning a window (10) disposed in a closure of a vehicle (column 1, lines 11-24), a guide track (21) configured to be attached to the mounting surface, a carriage (17) having a plurality of rollers (29, 30, and 31) adapted to engage the guide track (21), a link (14) connected to the carriage (17) at a first end and connected to a first window bracket (13) at a second end

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and an actuator (25) for moving the carriage along the guide track (21), and the plurality of rollers (29, 30, and 31) roll along the guide track to move the window (10) between a raised position and a lowered position.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickles ('702) in view of Karwande (5,345,719). All of the elements of the instant invention are discussed in detail above except providing the window with multiple panes. Karwande ('719) discloses a window having multiple panes and a window treatment (32, and 40). Karwande ('719) further discloses a pane (28) extending further (due to the fact that the door is curved inwardly and that pane (28) extends further to an interior side) than the second pane (30). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the window pane of Pickles ('702) with a double window pane as taught by Karwande ('719) since a plurality of window panes provides greater structural integrity and safety.

Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burrige ('335) in view of Karwande ('719). All of the elements of the instant invention are discussed in detail above except providing the window with multiple panes.

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Karwande ('719) discloses a window having multiple panes and a window treatment (32, and 40). Karwande ('719) further discloses a pane (28) extending further (due to the fact that the door is curved inwardly and that pane (28) extends further to an interior side) than the second pane (30). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the window pane of Burrige ('335) with a double window pane as taught by Karwande ('719) since a plurality of window panes provides greater structural integrity and safety.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burrige ('335) in view of Pickles ('702). Burrige ('335) discloses an apparatus for positioning a window (10) disposed in a closure of a vehicle (column 1, lines 11-24), a guide track (21) configured to be attached to the mounting surface, a carriage (17) having a plurality of rollers (29, 30, and 31) adapted to engage the guide track (21), a link (14) connected to the carriage (17) at a first end and connected to a first window bracket (13) at a second end and an actuator (25) for moving the carriage along the guide track (21), and the plurality of rollers (29, 30, and 31) roll along the guide track to move the window (10) between a raised position and a lowered position. Burrige ('335) fails to disclose a strut. Pickles ('702) discloses a strut (50). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the apparatus of Burrige ('335) with a strut as taught by Pickles ('702) since a strut provides assistance to an opening/closing mechanism during the closing portion of the window path.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burrige ('335) in view of Pickles ('702) as applied to claim 15 above, and further in view of Kouth et al. (3,640,022). All of the elements of the instant invention are discussed in detail above except providing pairs of rollers. Kouth et al. ('022) disclose a pair of rollers (see figure 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the apparatus of Burrige ('335) with pairs of rollers as taught by Kouth et al. ('022) since pairs of rollers increase the surface area for guiding between the window/drive assembly and the guide track.


Claims 2-6, 10, and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patent to Christ et al. disclose multiple windowpanes similar to that of the applicant's invention. U.S. patent to Fenelon (6,216,394) discloses a plurality of rollers similar to that of the applicant's invention. U.S. patent to Maslonka (3,143,340) discloses a pair of struts (29), which assist the window to an opened position. U.S. patent to Golde (3,209,412) discloses a spring-assisted window similar to that of the applicant's invention. U.S. patent to Nakagomi et al. disclose a spring-

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assisted window similar to that of the applicant's invention. U.S. patents to Oishei et al. and Waddey disclose hydraulic assist devices similar to that of the applicant's invention.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 571-272-6835.



Jerry Redman
Primary Examiner